

REMARKS/ARGUMENTS

We thank the Examiner for his courteous attention in a telephone interview which took place on January 29, 2004.

The Examiner has rejected claims 1-5 and 7-22 as being obvious over the combination of Stachowski (U.S. Patent 6,227,207), in view of Cronk (U.S. Patent 6,244,265). Stachowski discloses a hair styling device comprising a spring strip. Cronk discloses a medical device, namely a nasal strip which contains at least one of an aromatic or transdermal medication or a volatile fragrant substance for treating breathing problems. Reconsideration is requested.

A claim may be rejected for obviousness if “the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Examiner suggested that in view of Stachowski and Cronk, it would have been obvious to combine the two patents’ features and obtain a body covered with a scented sheet material, as claimed in claims 7 and 12. The applicant cannot agree that Cronk would have provided a skilled person with any motivation to modify Stachowski. There is no motivation or suggestion in either Stachowski or Cronk of incorporating a microcapsulized fragrance into Stachowski’s hair clip.

Claims 7 and 12, the independent claims, are reproduced below:

7. A scented product comprising at least one body, a sheet material on the at least one body, and a fragrance-containing microcapsule material adhered to the sheet material.

12. A process for manufacturing a scented product comprising the steps of:

 providing a product comprising a body, with a sheet material covering said body, and

 applying a fluid to said sheet material, said fluid containing microcapsules which contain a fragrance.

In rejecting independent claims 7 and 12, the Examiner stated:

As to claim 7, Stachowski discloses a product (see Figure 12) comprising at least one body 33, and a sheet material 34 on the at least one body 33. The difference between the claim and Stachowski is the claim recites a scented product, and a fragrance-containing microcapsule material adhered to the sheet material. Cronk discloses a body ornament having a body covered in sheet material similar to that of Stachowski. In addition, Cronk further teaches the product is scented, and a fragrance-containing microcapsule material 260 (see

Figure 7) is adhered to the sheet material 230. It would have been obvious to one of ordinary skill in the art, having the disclosures of Stachowski and Cronk before him at the time the invention was made, to modify the sheet material of Stachowski to have a fragrance-containing microcapsule material adhered thereon, as in Cronk, to obtain a scented product. One would have been motivated to make such a combination because the ability to incorporate medication and/or cosmetic fragrance (abstract) would have been obtained, as taught by Cronk. [Emphasis added.]

As to claim 12, Stachowski discloses providing a product comprising a body 33, with a sheet material 34 covering said body. Cronk teaches applying a fluid 232/260 to said sheet material 230, said fluid containing microcapsules 260 which contain a fragrance.

We cannot agree that Cronk discloses a “body ornament.” Cronk’s invention is a medical device. It is a nasal strip. Its fragrance, if any, improves the breathing of patients with nasal congestion or other problems. The references fail to provide any motivation for a medical device engineer to apply Cronk’s fragrance-containing microcapsule material to a hair clip, or even a bracelet, since a hair clip or bracelet is disposed nowhere near the nose and such a combination would provide no therapeutic advantage.

Further, one skilled in the art of making hair accessories like Stachowski’s would have had no motivation to look to a medical nasal strip for ideas on how to create a new hair product.

In summary, there is no motivation disclosed in either Stachowski or Cronk for modifying Stachowski’s hair clip by applying Cronk’s fragrance material. The combination of references is motivated only by hindsight, using claims 7 and 12 as guides. The two references would not have been combined by those skilled in the (two respective) pertinent arts. The rejections based on the combination of Stachowski and Cronk therefore should be withdrawn.

The additional comments in the Amendment dated August 22, 2003 are incorporated by reference.

In summary, the grounds for rejection of claim 7 and 12 and their dependent claims should be withdrawn. Allowance of claims 1-5 and 7-22 is requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 5, 2004

James A. Finder

Name of applicant, assignee or
Registered Representative

February 5, 2004

Date of Signature

JAF:msd

Respectfully submitted,



James A. Finder

Registration No.: 30,173

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700